THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9405 of 2007

Dated: 30-04-2007

Between:

Smt. L. Eshwaramma.

..... PETITIONER

AND

The Commissioner of Appeals, Urban Land Ceiling,
Hyderabad, and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.9405 of 2007

ORDER:

Land admeasuring about Acs.156.00 in survey Nos.323 to 331, 355, 365, 366, 368, 379, 380, 384 to 390, 392, 398, 400, 406 to 408 and 414 situated at Nagaram Village, Keesara Mandal, Ranga Reddy District, was owned by M/s Adavayya, Eswaraiah and Venkaiah, who partitioned the property into three equal shares. Each got Acs.52.22 gts. Venkaiah and his two sons, namely, Laxmaiah and Dhanaiah were jointly holding the property. Dhanaiah married Laxmamma. The petitioner is the daughter of this couple. Dhanaiah died in 1964. After coming into force of the Urban Land (Ceiling and Regulation) Act, 1976 (the Act, for brevity), Laxmamma filed a declaration, being C.C.No.G2/9778/76, and Laxmaiah filed declaration, being

CC.No.G2/9779/76 under Section 6(1) of the Act. The Special Officer and Competent Authority for Urban Agglomeration, Hyderabad, second respondent herein, after issuing draft statement under Section 8(1) of the Act, passed final orders under Section 8(4) read with Section 9 of the Act, vide Proc.No.G1/9778 & 9779/76 dated 06.07.2005, declaring them (Laxmamma and Laxmaiah) as surplus holders each to an extent of 41,959.50 sq. mtrs in survey Nos.389, 392, 407 and 409. The petitioner herein claiming 1/6th share in the land, which was declared surplus insofar as of her mother Laxmamma is concerned, under Section 29-A of the Hindu Succession Act, 1956 (the Succession Act, for brevity) filed an appeal under Section 33 of the Act on 01.07.2006 before first respondent. As there was delay of 368 days, she filed interlocutory application for condonation of delay. She stated that delay occurred due to ignorance of law and fraud and misrepresentation played by the family members. By impugned order dated 17.01.2007, first respondent dismissed the appeal on the ground that the delay has not been explained properly.

The learned counsel for the petitioner submits that the impugned order dated 17.01.2007 is unsustainable for nondisclosure of reasons. According to the learned counsel, the petitioner could not prefer an appeal in time as she is an illiterate and ignorant of her rights.

After perusing the material and considering the background of the case, this Court is convinced that the submission of the learned counsel for the petitioner is misconceived. A plea of ignorance or a plea of fraud and misrepresentation unless proved by explaining events cannot be treated as sufficient reasons to condone the delay. Dismissal of the appeal on the ground that there is delay of 368 days without sufficient reasons itself is a reason and there cannot be a better reason than that. Further except stating in the appeal grounds for the first time that by virtue of Section 29-A of the Succession Act, the petitioner is entitled to a share in the property of Dhanaiah, her father, no such declaration or material is placed before this Court. Be that as it is, if the petitioner is aggrieved by the impugned order dated 17.01.2007, she may prefer a revision to the Government under Section 34 of the Act within a period of four weeks from the date of receipt of a copy of this order.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

30th April, 2007
ghn